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8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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12  
13 **MIYOKO'S KITCHEN,**

14 Plaintiff,

15 v.

16 **KAREN ROSS, in her official capacity as**  
17 **Secretary of the California Department of**  
18 **Food and Agriculture, and STEPHEN**  
19 **BEAM, in his official capacity as Branch**  
**Chief of the Milk and Dairy Food Safety**  
**Branch,**

20 Defendants.  
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3:20-cv-00893-RS

**NOTICE OF WITHDRAWAL OF  
POSITION**

Date: July 16, 2020  
Judge: Honorable Richard Seeborg

Trial Date: Not Set  
Action Filed: February 6, 2020

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS:

2 PLEASE TAKE NOTICE that the California Department of Food and Agriculture  
3 withdraws its position that “[i]mages of animal agriculture from [Miyoko’s] website must . . . be  
4 removed . . . .”<sup>1</sup> The Department reviewed this position stated in the December 9 letter and  
5 concluded that the position is inconsistent with the relevant statute, California Food and  
6 Agricultural Code Section 38955. After review of the statute’s text, the Department concluded  
7 that (1) this statute requires the promulgation of a regulation prior to enforcement, and the  
8 Department has not promulgated such a regulation, and (2) the statute concerns the package itself,  
9 not other promotional materials.

10 Defendants will address the effect of this withdrawal in their brief in opposition to  
11 Miyoko’s Motion for Preliminary Injunction and their Answer.

13 Dated: July 16, 2020

CALIFORNIA DEPARTMENT OF FOOD AND  
AGRICULTURE, MILK AND DAIRY FOOD SAFETY  
BRANCH

15 /s/ Stephen Beam  
16 STEPHEN BEAM  
Branch Chief

17 Dated: July 16, 2020

XAVIER BECERRA  
Attorney General of California  
MYUNG J. PARK  
Supervising Deputy Attorney General

20 /s/ Michael S. Dorsi  
MICHAEL S. DORSI  
Deputy Attorney General  
Attorneys for Defendants

23 As the attorney e-filing this document, Michael S. Dorsi attests that Stephen Beam  
24 concurred in the filing of this document. /s/ Michael S. Dorsi

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26 <sup>1</sup> The relevant text of the December 9 letter, now withdrawn, states, “Images of animal  
27 agriculture from the website must also be removed such as the image below of the woman  
28 hugging a cow with other cows grazing in the background and the claim ‘100% dairy free and  
cruelty free’. Dairy images or associating the product with such activities cannot be used on the  
advertising of products which resemble milk products. FAC 38955.” ECF No. 1-1 at 1–2.